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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,902	02/23/2004	Max Stanford Tomlinson JR.	03191.000100	7510
5514 7590 03/09/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER BLECK, CAROLYN M	
			ART UNIT 3626	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS			MAIL DATE 03/09/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/782,902	<b>Applicant(s)</b> TOMLINSON ET AL.	
	<b>Examiner</b> Carolyn M. Bleck	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/23/04</u>   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the application filed on 2/23/04. Claims 1-12 are pending. The IDS filed on 2/23/04 has been entered and considered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Jamroga et al. (6,574,742).

(A) As per claim 1, Jamroga discloses a business method for providing access to digital medical image data generated by up to a plurality of imaging facilities to a payer, the business method comprising the steps of:

(a) receiving digital medical image data generated by the imaging facilities using a gateway at each imaging facility (Fig. 1-2, 5, col. 7 lines 10-17, col. 8 lines 44-67, col. 10 line 53 to col. 11 line 52);

(b) transmitting the received digital medical image data from the gateway to a central server via a network and storing the digital medical image data at the central server (Fig. 1-2, 4-7, col. 10 lines 21-52, col. 16 line 58 to col. 17 line 30); and

(c) providing access to the stored digital medical image data via the network to the payer for a fee (Fig. 1, 8, col. 6 line 64 to col. 7 line 44, col. 8 lines 44-67, col. 9 lines 22-33, col. 12 lines 29-65, col. 13 lines 12-20).

(B) As per claim 2, Jamroga discloses wherein the digital medical image data is transmitted from the gateway (proxy server, 32) to the central server using an authenticated session over a secure protocol (Fig. 2-6, 11, col. 12 line 29 to col. 13 line 12).

(C) As per claim 3, Jamroga discloses wherein the network is the Internet (Figure 2).

(D) As per claim 4, Jamroga discloses wherein the central server (#12) is remote from both the imaging facilities (#14, first participant institution) and the payer (#14, second participant institution) (Fig. 1, col. 6 line 64 to col. 7 line 45).

(E) As per claim 5, Jamroga discloses the step of determining if the digital medical image data received by the gateway is associated with the payer (Fig. 3-4, col. 9 line 47 to col. 10 line 52), wherein only digital medical image data determined to be

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associated with the payer is transmitted to the central server and stored (Fig. 3-4, col. 9 line 47 to col. 10 line 52. col. 12 line 66 to col. 13 line 20).

(F) As per claim 6, Jamroga discloses wherein the digital medical image data is received by the gateway using a DICOM protocol (Fig. 11, col. 10 line 53 to col. 11 line 10, col. 15 line 5 to col. 61 line 51).

(G) As per claim 7, Jamroga discloses wherein the digital medical image data is transmitted to the central server and stored in the same format as it was received by the gateway (Figure 4, col. 7 line 56 to col. 8 line 23).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (6,574,742) as applied to claim 1, and further in view of Wood et al. (5,851,186).

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(A) As per claim 8, Jamroga discloses billing a participant institution for accessing medical image data (Fig. 1, col. 13 lines 12-20). Jamroga fails to expressly disclose receiving a report generated by the imaging facilities and stored at the central server. Wood discloses the steps of: receiving a report corresponding to digital medical image data generated by the imaging facilities (Fig. 1, #22, col. 2 line 60 to col. 3 line 42); and storing the report at the central server (Fig. 1, #24b, col. 2 line 60 to col. 3 line 42). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the method of Jamroga with the motivation of enabling diagnostic information and reports to be accessed from remote locations (Wood; col. 1 lines 43-57).

(B) As per claim 9, Jamroga discloses wherein the medical image data is encrypted and transmitted to the central server via the network using an authenticated and secure communication session (Fig. 2-6, 11, col. 12 line 29 to col. 13 line 12). Jamroga does not expressly disclose that the medical image data is in the form of a report. Wood discloses generating a report by imaging facilities and transmitting the report to a server (Fig. 1, col. 2 line 60 to col. 3 line 42). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the method of Jamroga with the motivation of increasing the security of medical information that is sent over a network.

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(C) As per claim 10, Wood discloses the step of providing an interface for the payer to control access to the stored digital medical image data and corresponding reports via the network for individuals besides the payer (Fig. 1, col. 5 lines 42-45, col. 6 lines 30-44, col. 7 line 60 to col. 8 line 12). The motivation for combining Wood within Jamroga is given above in claim 8, and incorporated herein.

(D) As per claim 11, Jamroga discloses the step of recording access to the stored digital medical image data and corresponding reports, wherein access records are provided to the payer via the network for digital medical image data and corresponding reports associated with the payer (col. 12 line 29 to col. 13 line 20, col. 14 line 55 to col. 15 line 4). As per the recitation of "reports," note the teachings and discussion in the rejection of claim 8.

(E) As per claim 12, Jamroga does not expressly disclose where access to the stored digital medical image data and corresponding reports is provided using a web-based viewer. Wood discloses using a web browser to view web pages and image data (Fig. 1-2, 5-6, col. 3 lines 20-42). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the method of Jamroga with the motivation of enabling diagnostic information to be accessed from remote locations (Wood; col. 1 lines 55-57).

### ***Conclusion***

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6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied prior art teaches ultrasound image management system (5,949,491) and integrated system and method for ordering and reporting of medical tests (6,018,713).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

1. **Any response to this action should be mailed to:**



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Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(571) 273-8300	[Official communications]
(571) 273-8300	[After Final communications labeled "Box AF"]
(571) 273-6767	[Informal/ Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.

*Carolyn Bleck*  
**Carolyn M. Bleck**  
**Patent Examiner**  
**Art Unit 3626**

**3/2/07**